

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Amendment of Part 11 of the Commission's Rules)
Regarding the Emergency Alert System)

EB Docket No. 01-66)
RM-9156)
RM-9215)

To: The Commission.

Comments Of The National Center For Missing & Exploited Children

The National Center for Missing & Exploited Children (hereinafter "NCMEC") hereby comments to the Commission's notice of proposed rulemaking *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*. Specifically, NCMEC supports the addition of an event code to the Emergency Alert System (EAS) to provide emergency notification and information pertaining to the abduction of a child. However, NCMEC believes that the addition of a "Abducted Child Statement" event code, vice the proposed "Missing Child Statement", would better serve the public and ensure the integrity of the EAS. In support of its position, NCMEC shows the following:

NCMEC Is An Interested Party

NCMEC is a private, nonprofit organization established in 1984 as a national resource center for child protection. NCMEC operates under a Congressional mandate and works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. The National Center is a vital resource for the approximately 18,000 law enforcement agencies located throughout the United States in their search for missing children

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and the quest for child protection. The Center's mission is carried out by creating, as well as promoting successful programs, such as the AMBER Plan¹ - America's Missing: Broadcast Emergency Response, that protect children against victimization. This summer NCMEC will officially launch the AMBER Plan nationwide and assist states, counties, and towns with implementing their own emergency alert plans to help save abducted children. (See, Exhibit A). This national initiative is in partnership with the National Association of Broadcasters and the Dallas/Fort Worth Association of Radio Managers who developed the concept of the AMBER Plan.

The AMBER Plan

The AMBER Plan is a voluntary partnership between law enforcement agencies and the media to send out an emergency alert to the public in serious child abduction cases. Under the AMBER Plan, area radio and television stations initially interrupt programming to broadcast information about the case using the Emergency Alert System, which was implemented by broadcasters on January 1, 1997. Formerly known as the Emergency Broadcast System, the EAS is typically used for alerting the public to severe weather emergencies. Because there is no specific EAS event code for serious child abductions, the AMBER Plan is currently activated through a "Civil Emergency Message" event code. However, the use of a Civil Emergency Message to relay information about a child abduction often results in confusion with other civil

¹ The AMBER Plan was created in 1996 as a powerful legacy to 9-year-old Amber Hagerman who was kidnapped and murdered in Arlington, Texas. Police say Amber was dragged from her bicycle while riding in a nearby shopping center. Her body was found four days later. The news of Amber's murder outraged the entire community. It also mobilized them to take action. Following her murder, several concerned citizens contacted local radio stations in the Dallas/Fort Worth area and suggested they broadcast special "alerts" over the airwaves to help find abducted children as they do for severe weather emergencies. In response to this recommendation and the community's concern for the safety of their children, the Dallas/Fort Worth Association of Radio Managers, with the assistance of law enforcement agencies across the Dallas/Fort Worth area of Texas, established the AMBER Plan.

emergencies, such as tornadoes and hurricanes. This ultimately results in an unwillingness to activate the system for child abductions. A special event code, such as an Abducted Child Statement, will prevent confusion as to the intent of the alert and therefore, encourage the use of the EAS to quickly mobilize a community in the search for an abducted child. The use of a Abducted Child Statement event code will ensure the integrity of the EAS and build on its reputation as the most credible and reliable vehicle for providing emergency information to the public.

The purpose of the AMBER Plan is to provide a rapid response to the most serious child abduction cases. When an alert is activated, law enforcement agencies immediately gain the assistance of thousands of broadcast listeners and viewers throughout the area. The AMBER Plan's goal is to galvanize the community to search for the abducted child and the suspect. It is hoped that this early warning system will not only convince a kidnapper to release the abducted child but also act to deter would be kidnappers from committing the crime in the first place.

Statistics show that the first few hours of a child abduction are critical to the outcome of the case. According to a study by the U.S. Department of Justice, about 75 percent of the children who are kidnaped and later found murdered were killed within the first three hours after being taken.² That statistic alone should prompt every community to implement the AMBER Plan before a tragedy strikes. The AMBER Plan in cooperation with the EAS using a Child Abduction Statement event code will send a strong message that crimes against children are

² Kenneth A. Hanfland, Robert D. Keppel, and Joseph G. Weis. *Case Management for Missing Children Homicide Investigation: Executive Summary*. Olympia, Washington: Office of the Attorney General, State of Washington and U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention, May 1997, page 3.

intolerable. The synergism of the Amber Plan and the EAS provides law enforcement, broadcasters, and private citizens, with a powerful weapon in the war against child predators.

The AMBER Plan was not designed for runaway cases or most parental abductions unless the life of the child is threatened. The U.S Department of Justice reports that annually there are as many as 450,700 children who runaway and 354,000 children abducted by family members. In comparison, there are 4,600 abductions by non-family members reported to police annually and 300 of those children are gone for long periods of time or murdered. If the AMBER Plan was to be initiated for every runaway case or parental abduction, the EAS would be overused and would ultimately result in it not being activated. It is NCMEC's position that the proposed Missing Child Statement event code will result in the misuse of the EAS and will deter broadcasters participation in AMBER Plans. Therefore, it is imperative to the continued growth and success of the Amber Plan that a Abducted Child Statement event code vice the proposed Missing Child Statement be incorporated into the EAS.

The AMBER Plan Today And Its Future Growth

Currently, there are twenty two active AMBER Plans nationwide on the local, regional and state level ³ and thirteen AMBER Plans are in the developmental stage.⁴ (See, Exhibit B). Sixteen of the active AMBER Plans use the Emergency Alert System to distribute child

³ The AMBER Plan's popularity is growing across the United States and even into Canada. Since the program was established in Texas, modified versions have been adopted in the following areas: Albuquerque, New Mexico; the State of Arkansas; Beaumont, Texas; Belleville, Illinois; Columbia, South Carolina; Corcoran, California; the State of Florida; Greater Cincinnati; Northern Kentucky; Southeastern Indiana; Houston, Texas; the State of Illinois; Jefferson County, Kansas; Kansas City, Missouri; Memphis, Tennessee; the State of Oklahoma; Orange County, California; Pima County, Arizona; Raleigh, North Carolina; Saint Louis, Missouri; Spotsylvania, Virginia; Topeka, Kansas; Washoe County, Nevada; and Wichita, Kansas.

⁴ Communities developing AMBER Plans include Metropolitan Washington, DC Area; Phoenix, AZ; Pennsylvania; Minneapolis, MN; Washington State; Michigan; San Diego, CA; Salt Lake City, UT; Sacramento, CA; Denver, CO; Riverside County, CA; Richmond, VA; and Winnipeg, Manitoba.

abduction information to broadcasters in a timely fashion. (See, Exhibit C). Conversely, six plans do not use the EAS. NCMEC surveyed the coordinators of these six plans to determine their reason for not using the EAS. One coordinator did not know about the EAS or its capability to deliver this type of emergency information. Five coordinators reported that they simply preferred using their normal operating procedures for disseminating urgent bulletins to the media via blast fax, Associated Press wires, phone calls and voice mailbox system because it was easier and no one had to worry about whether it was appropriate to use EAS for this type of emergency. If there was a specific Abducted Child Statement event code, coordinators and the members of an AMBER Plan would not question whether to use the EAS for this type of tragic incident.

The Success Stories Speak For Themselves

To date, AMBER Plans using the EAS to deliver critical information about the most serious child abduction cases have assisted in the amazing recovery of at least fifteen children. (See, Exhibit D). The success stories discussed below demonstrate the tremendous power of the AMBER Plan when paired with the EAS.

November 19, 1998: Two-month-old Rae-Leigh Bradbury was rescued less than a half hour after an AMBER Alert was triggered. Rae-Leigh had been abducted from her hometown of Arlington, Texas by her 42-year-old babysitter Sandra Fallis. After an intense investigation, police discovered that the baby-sitter was a crack cocaine user. Immediately, police considered the child endangered and issued an AMBER Alert to millions of listeners. Not long after it was broadcast, a motorist called police on his cell phone and reported that Fallis was driving right in front of him. Within minutes, Fallis was pulled over and arrested. Rae-Leigh was found unharmed and quickly reunited with her parents. Fallis was put on probation for 10 years.

September 13, 1999: Six-month-old Demetri Collette and his 19-month-old sister Monique were recovered unharmed after an AMBER Alert caught the attention of a concerned motorist. Twelve hours earlier, the family's vehicle was car jacked from a Tulsa, Oklahoma gas station with the children in the back seat. It happened while their mother ran into the station's store. That's when 19-year-old Bonnie Grubbs and her friend Joe Phelps stole the car and the children. Police quickly activated the AMBER Plan and alert bulletins flooded the airwaves. The children were recovered the next day when an attentive motorist, who heard the alerts, recognized the family's abandoned car on a dirt road about 75 miles northeast of Tulsa. Luckily, the children were found safe in the backseat of the vehicle. Demetri and Monique were happily reunited with their mother. Grubbs and Phelps were later arrested and sentenced to ten years in prison.

The success stories highlighted above demonstrate that the AMBER Plan saves lives of abducted children. The Amber Plan has been so successful that it has inspired the U.S. House of Representatives to pass House Resolution 605 which recognizes the AMBER Plan as "a powerful tool in fighting **child abductions** and should be used across the United States."⁵ (See, Exhibit E). The adoption of an Abducted Child Statement event code will only improve the quality of the AMBER Plan and fuel its growth and implementation throughout the Nation.

A History Of Life Saving Messages

Based on the remarkable success of the AMBER Plan when utilizing the EAS and the AMBER Plan's increasing popularity, the NCMEC requests that the Commission add a specific Abducted Child Statement event code to the EAS. This new code, carefully defined and limited

⁵ H.R. 605, 106th Cong. (2000)(Emphasis added).

to serious child abduction cases, will be an invaluable resource for law enforcement agencies. It will also give broadcasters the opportunity to contribute to the communities they serve in the most meaningful possible way.

The purpose of the EAS is to transmit “Life Saving Messages” to the Nation or to the public in state or local areas. The timeliness and efficiency to an emergency situation, including a child abduction, greatly determine whether lives will be saved. In the case of child abductions, if a community is slow to act, the child may not come home safely. If the child is never found or discovered murdered and the suspect is not apprehended, the entire community remains at risk.

The NCMEC recognizes that adding a new Abducted Child Statement event code will allow communities to efficiently implement this life saving plan using the oldest and most credible means of relaying information to broadcasters quickly and simultaneously through the Emergency Broadcast System (EBS), now EAS. The EAS is already a proven and reliable vehicle for delivering critical information to communities. The EBS was created during the Truman administration as a way for the President to deliver emergency messages to the nation. In 1963, the use of the EBS for state and local emergencies such as tornadoes, hurricanes, and toxic spills was authorized. While we are ever mindful that the system could be activated for a national threat, the day-to-day reality is that the EAS has become an important tool for delivering emergency information on the state and local level.

The adoption of an Abducted Child Statement event code for the most serious child kidnaping cases, would build on the integrity of the system by reinforcing its original purpose and primary value - to provide the public with timely emergency information. There will never be concern that an urgent bulletin is sitting on a broadcaster’s fax machine or in an unread email because every station is required by the FCC to participate in the Emergency Alert System.

Moreover, each station is required to have an approved, fully operational EAS encoder/ decoder for sending and receiving emergency information.

In preparing these comments, the NCMEC consulted with various representatives of established AMBER Plans around the country and learned that other methods of first-time notification like media-specific pagers, fax machines, and media wires do not offer "simultaneous" delivery to participating radio and TV stations. Since the AMBER Plan involves various broadcast formats and staffing levels at each station, simultaneous delivery through the EAS removes "competitive" concerns. It is this "leveling" of the playing field that makes the plan viable in markets large and small.

Currently, the AMBER Plan is triggered through a "Civil Emergency Message" event code. When the code is sent through a broadcaster's EAS box, an engineer, D-J or board operator would not automatically know the warning is about a child abduction until the actual message is delivered. If there was a specific Abducted Child Statement event code, broadcasters could react even quicker to the case.

With the new EAS, event codes can be sent directly to a character generator through a designated port and then translated directly into text for use by cable systems or television stations. Because most cable outlets aren't staffed 24 hours, the alert is currently broadcast automatically in a crawl across television screens. It reads – "Civil Emergency Message." This type of message has concerned some residents in Oklahoma who have worried that the message was for a natural disaster. If there was a specific Abducted Child Statement event code, then the words "Abducted Child" would run across the screen instead of "Civil Emergency Message", letting communities know immediately how to react to the incident. Moreover, it might prompt them to take a proactive role in helping to find the child and the suspect.

The Addition Of An Abducted Child Statement Event Code To The EAS
Ensures The Integrity Of The EAS

Repeated EAS alerts that are not legitimate child abduction cases may cause the audience to become numb to the system. Repeated crawls on the television screen and to the radio's designated tone may cause a "cry wolf" syndrome. It is for this reason that NCMEC requests that the new event code be termed "Abducted Child" Statement as opposed to "Missing Child" Statement. The AMBER Plan is for child abductions not runaways or a majority of parental abductions, the two leading causes of missing children today.

To ensure the plan is used properly, the Center is creating an AMBER Plan kit that will include a handbook for law enforcement and the media explaining how to create an effective AMBER Plan. For instance, it will provide readers with appropriate criteria used for the plan and its usage. The kit will also include a video for educational and training purposes. Our goal is to provide every interested community with the necessary steps to develop comprehensive and consistent AMBER Plan procedures. Our instructional information will also strongly emphasize the concern of abusing the EAS, a valuable national system that has the full confidence of the American public. We can't stress enough how strongly the NCMEC feels about maintaining the integrity and credibility of the EAS and the AMBER Plan. A perfect example of the cooperation between broadcasters and law enforcement in the efficient use of the AMBER Plan is the Dallas/Ft. Worth area plan. The Dallas/Ft. Worth AMBER Plan has been in operation for 54 months and it has been activated only 38 times, under one alert per month.

Although this program is a joint effort between law enforcement and the media, the decision to launch the AMBER Plan rests solely with the investigating agency. The media does not play a role in this critical decision-making process. While some broadcasters may feel

uncomfortable with giving law enforcement the power to pull the AMBER Alert trigger, the NCMEC believes that each station must yield to the investigative skills and training of their local agency with regard to this type of crime as they do with other investigations. Each agency has their own integrity to uphold so it behooves all agencies to develop strict AMBER Plan guidelines by which they will abide.

EAS is not used to achieve "audience impressions" and "time spent listening" aside from the first activation of the AMBER Alert. The EAS is used to motivate thousands of listeners and viewers to search for the child and the suspect. EAS is not used to continually update listeners and viewers about an abduction. After the first EAS usage then it's up to each broadcaster to put out the alert on their own. Broadcasters do this by interrupting programming every 15 minutes for the first two hours with alert information. The EAS is then used for only valid updates or alert cancellation. An EAS update would only be used if it provided significant information such as a recent sighting of the suspect's car or a recently developed witness to the crime. An EAS cancellation is only activated if it's been less than 24 hours after the first activation.

When a station buys an EAS box, its engineers modify the settings to fit the local market and station format. For example, in the case of severe weather bulletins, each station can select when the box will set off the tone mechanism by selecting some counties, and not others. Even if a special event code is allowed for abductions, it is important to remember that use of the event code would not come into play until broadcast outlets and police agencies in a particular market have decided to use the Plan, and have agreed on specific criteria for activation.

The Emergency Alert System Provides Many Benefits To An AMBER Plan

The benefits of using the EAS and adding an Abducted Child Statement event code to activate the AMBER Plan far out- weigh broadcasters' concerns.

Mandatory

The Federal government requires all radio and television stations to have a fully operational EAS encoder/decoder for sending and receiving emergency before they can receive an operating license. That means all broadcast stations can be active participants in the AMBER Plan. Adding an Abducted Child Statement event code would bring uniformity to the Plan. By utilizing the EAS, no station has to worry about missing out on vital emergency information.

Immediate

When every minute counts, the EAS has the capability to issue an immediate "call to action" to the community to assist in the search for the child and the suspect. That's because every radio and TV/ Cable system receives the information quickly and simultaneously. There is never a concern the urgent alert information is sitting on a broadcaster's fax machine, in an unread e-mail or on an overloaded voice mail box, because every station is required to participate in the EAS by monitoring at least two independent sources of emergency information at all times. Time is the enemy when a child is abducted.

Inexpensive

There is no additional expense or re-programming of the EAS receiver, unless of course, a state agency is called upon to activate the system and they do not own the equipment. At that point, the proper equipment will need to be purchased. Police participation in the AMBER Plan

is free. And, radio and television stations' participation is voluntary and is done as a public service without commercial endorsement.

Less Intrusive

When broadcasters follow their schedule of weekly and monthly tests (including NOAA) each EAS box tone mechanism is triggered dozens of times a year. In comparison, AMBER Plan activations average less than one a month in markets large and small.

Accessibility

As the Commission is aware, the newest generation of EAS receivers will afford greater accessibility than the EBS. You do not need a TV or radio to receive an emergency alert with the new EAS. The EAS digital improvement will allow messages to be received and decoded through specially equipped consumer products, such as pagers, cellular phones and other devices. With the advances in technology, the EAS will be able to deliver urgent information to a much greater audience than it already does. This will prompt more citizens to take action and involve themselves in the search. It will more than likely increase leads regarding the case for law enforcement.

Flexibility

EAS digital messages can now be automatically converted into any language used by the broadcast station or cable system through the new EAS. This is a great asset to our local communities. The Immigration and Naturalization Service reports that more than 660,000 immigrants were granted legal permanent resident status during 1998. For many of these non-English speaking listeners, the EAS will allow them to quickly understand the alert information and assist in the search. Furthermore, NCMEC statistics from the last five years show that we received 523 cases of non-family abductions. These are the most serious child abduction cases

where an AMBER Alert would be issued. Nearly 100 of those children were Hispanic. This unique EAS feature would be a great service to the Hispanic community by translating these emergency bulletins automatically into Spanish.

Automatic

The Stations have the ability to program the system to automatically interrupt programming and transmit the alert. This would benefit stations that are not staffed 24 hours a day because the system automatically overrides current programming and breaks in with the alert. A station cannot do this if the information is distributed via a blast fax, wire services, phone calls or e-mail. This will especially benefit rural areas of the United States who want to implement the AMBER Plan. Most broadcast stations outside large metropolitan areas are not staffed 24-7.

Time Is Of The Essence

NCMEC endorses the use of the Emergency Alert System to activate the AMBER Plan and wholeheartedly recommends the Commission to add an “Abducted Child Statement” event code to the EAS. The system has proven to be the most efficient and expedient way to disseminate information to area broadcasters and cable operators simultaneously. The adoption of an Abducted Child Statement event code will be a “win-win” situation for everyone: the public, the media, law enforcement and the FCC. Adoption of an Abducted Child Statement goes hand in hand with the purpose of the EAS and will make the EAS box even more valuable to the public by building on the reputation of the EAS as an efficient tool to provide timely emergency information. Time is critical when a community is trying to mobilize a rapid response to an abducted child case. That’s why the EAS is the most reliable vehicle for activating the AMBER Plan. Today, one out of six children is recovered as a direct result of

someone in the general public recognizing their picture and notifying authorities. Establishing an Abducted Child Statement event code to trigger the EAS will instantly galvanize communities to take a proactive role in protecting their children.

Conclusion

For the foregoing reasons, the National Center for Missing and Exploited Children respectfully requests the Commission to adopt an Abducted Child Statement event code to the Emergency Alert System.

Respectfully Submitted,
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